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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

DEL SOLE, JOSEPH S

ART UNIT	PAPER NUMBER
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1722

DATE MAILED: 02/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/760,963

Applicant(s)

KHOSHNEVIS, BEHROKH

Examiner

Joseph S. Del Sole

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13-17 is/are allowed.
- 6) ☒ Claim(s) 1-11 and 18-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-11 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Upon close review of claims 1-11, and after taking into consideration the portions quoted in the specification in the response of 1/30/06, it is found that claims 1-11 contain new matter. Specifically "a valve controller... programmed to control" [emphasis added]. While the apparatus is taught as capable of being controlled to perform the functions there is no support for a "program" that enacts the controls. Paragraphs 60 - 63 and 65 indicate that the nozzles are controlled and time lapses during operation, but there is no indication that it is controlled by a program. While paragraph 89 indicates that a computer controls the wall extrusions, it does not provide full support for a programmed controller operating in the manner claimed. For example, paragraph 89 states that gantry and positioning systems may also be needed and such systems do not support a programmed controller as claimed. Paragraph 70 sets forth feedback loops. Such disclosure does not provide the support necessary for a programmed

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controller as claimed because such feedback is cited as only aiding in positioning and such ultimate positioning may be accomplished without a program.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 18- 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Moore, Jr. (6,170,220).

Moore, Jr teaches a wall having a set of spaced apart rims (Fig 2A, #20), wherein each rim spans substantially the entire length of the wall (Fig 1, the wall length is discretionary and “substantially” is an open term); each rim includes a plurality of homogenous unbroken and separately discernable layers of a rim material (Fig 1), each rim layer in physical contact with one another and stacked on top of one another (Fig 1) along a vertical plate so that each rim layer is elevated in height with respect to a previously stacked rim layer (Fig 1); a filler (Fig 2A, C) between the rims, the filler including a plurality of separate layers of filler material (each horizontal layer of wall would have concrete separately filled in therefore causing separate layers); the rims are made of a material that is different than the filler (col 3, lines 40-50); the rims are made of plastic (col 3, line 42) and the filler is made of concrete (col 3, line 9); one or more rectangular openings within the wall (Fig 2); one of the layers of each rim was extruded at the same time as one of the layers of the filler; and the layers of each rim that were

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extruded at the same time are at a level within the wall that is different than the level of the layer of the filler that was extruded at the same time.

The Examiner notes that product claims 18-23 are not further limited by limitations towards the method of which the walls are formed.

5. Claims 18, 19, 21, 22 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Noon et al (4,606,169).

Noon et al teach a wall having a set of spaced apart rims (Fig 1, #11), wherein each rim spans substantially the entire length of the wall (Fig 1, the wall length is discretionary and "substantially" is an open term); each rim includes a plurality of homogenous unbroken and separately discernable layers of a rim material (Fig 1), each rim layer in physical contact with one another and stacked on top of one another (Fig 1) along a vertical plate so that each rim layer is elevated in height with respect to a previously stacked rim layer (Fig 1); a filler (Fig 1, #16) between the rims, the filler including a plurality of separate layers of filler material (Fig 1, as formed by #17); the rims are made of a material that is different than the filler (col 3, lines 40-55); and one or more rectangular openings within the wall (Fig 2); one of the layers of each rim was extruded at the same time as one of the layers of the filler; and the layers of each rim that were extruded at the same time are at a level within the wall that is different than the level of the layer of the filler that was extruded at the same time.

The Examiner notes that product claims 18-23 are not further limited by limitations towards the method of which the walls are formed.

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6. Claims 18, 19, 21, 22 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Kustus (3,562,991).

Kustus teaches a wall having a set of spaced apart rims (Fig 1, #s 36 and 38), wherein each rim spans substantially the entire length of the wall (Fig 1, the wall length is discretionary and "substantially" is an open term); each rim includes a plurality of homogenous unbroken and separately discernable layers of a rim material (Fig 1, #s 36 and 38), each rim layer in physical contact with one another and stacked on top of one another (Fig 1) along a vertical plate so that each rim layer is elevated in height with respect to a previously stacked rim layer (Fig 1); a filler (Fig 1, #26) between the rims, the filler including a plurality of separate layers of filler material (Fig 1, as formed by #24); the rims are made of a material that is different than the filler (col 2, lines 40 and 55); and one or more rectangular openings within the wall (Fig 1); one of the layers of each rim was extruded at the same time as one of the layers of the filler; and the layers of each rim that were extruded at the same time are at a level within the wall that is different than the level of the layer of the filler that was extruded at the same time.

The Examiner notes that product claims 18-23 are not further limited by limitations towards the method of which the walls are formed.

7. Claims 18, 19, 21, 22 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Winter, IV (4,833,855).

Winter, IV teaches a wall having a set of spaced apart rims (Fig 1, #s 22 and 24 and Fig 3), wherein each rim spans substantially the entire length of the wall (Fig 3, the wall length is discretionary and "substantially" is an open term); each rim includes a

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plurality of homogenous unbroken and separately discernable layers of a rim material (Fig 1, #s 22 and 24), each rim layer in physical contact with one another and stacked on top of one another (Fig 3) along a vertical plate so that each rim layer is elevated in height with respect to a previously stacked rim layer (Fig 3); a filler (Fig 1, #12) between the rims, the filler including a plurality of separate layers of filler material (Fig 3); the rims are made of a material that is different than the filler (col 3, line 55 - col 4, line 15); and one or more rectangular openings within the wall (Fig 3); one of the layers of each rim was extruded at the same time as one of the layers of the filler; and the layers of each rim that were extruded at the same time are at a level within the wall that is different than the level of the layer of the filler that was extruded at the same time.

The Examiner notes that product claims 18-23 are not further limited by limitations towards the method of which the walls are formed.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.

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4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

10. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kustus (3,562,991) in view of either of Melnick (5,664,382) and Bangma (5,749,196).

Kustus teaches the apparatus as discussed above.

Additionally Kustus teaches the filler material made of (col 2, line 40) and the rim material to be made of wood or another suitable material (col 2, line 55) however Kustus fails to teach the rim material made of plastic.

Melnick teaches a wall with rims and filler material wherein the rims are plastic and the filler is concrete (col 4, lines 3 and 33) for the purpose of providing a strong, easily formed and light outside to the wall. Bangma teaches a wall with rims and filler material wherein the rims are plastic and the filler is concrete (col 4, lines 36 and 44-53) for the purpose of providing the outside wall with a lightweight material having insulative value.

It would have been obvious to one having ordinary skill in the art at the time of the Applicant's invention to have modified the invention of Kustus with a plastic rim as taught by either of Melnick or Bangma because such material is strong, insulative and lightweight.

Response to Arguments

11. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

However, the Examiner will address the arguments which may still relate to the current rejections.

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The applicant argues that Moore does not teach the new limitations concerning the rim.

The Examiner disagrees. The rims of Moore do substantially span the entire length of the wall (the wall length is discretionary and "substantially" is an open term). Each rim #20 is homogenous (it is made of a single material), unbroken (since it is a single piece) and separately discernable (since it is separable from other rims). Further, although each rim connects horizontally with another rim, any single rim does substantially extend the length of the wall as claimed. Additionally, as claimed, a wall need not be the entire structure shown by Moore but reads on a portion in which only a single rim per horizontal layer exists.

The Applicant argues that Winter, IV does not teach the new limitations concerning the rim.

The Examiner disagrees. The rims, as newly claimed, read on portions of panels #10, namely #s 22 and 24. #s 22 and 24, and are homogenous, unbroken, separately discernable and span substantially the entire length of the wall. Further, although each rim connects horizontally with another rim, any single rim does substantially extend the length of the wall as claimed. Additionally, as claimed, a wall need not be the entire structure shown by Winter, IV but reads on a portion in which only a single rim per horizontal layer exists.

References of Interest

12. Lacombe et al (4,517,780), Rollinger (984,517), Gladwin (1,578,511), Vevoda (3,221,457) and Vandehey et al (6,662,516) are cited of interest to show the state of the art.

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph S. Del Sole whose telephone number is (571) 272-1130. The examiner can normally be reached on M-F 8:30 - 5.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on (571) 272-1166. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Joseph S. Del Sole

2/10/05